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To: Magalie Roman Salis
Secretary
Federal Communications Commission

FAX: 202-418-2805

From: Timothy J. Regan
Company: Corning Incorporated
1350 I Street NW, Suite 500
Washington, DC 20005

Phone: 202/682-3140
Fax: 202/682-3130

Date: 12/4/2001

Subject: Letter from Wendell P. Weeks, President,
Corning Communications

Re: Promoting Broadband Investment
(CC Docket Nos. 96-98, 98-147)

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Federal Communications Commission
Office of Secretary

Pages including this cover page

- 4 -

Ms. Salis,

The attached letter was sent today to the following:

The Honorable Michael J. Powell
The Honorable Katheen Q. Abernathy
The Honorable Michael J. Copps
The Honorable Kevin J. Martin
The Honorable Dorothy Attwood
Mr. Matthew Brill
Mr. Kyle D. Dixon
Mr. Samuel Feder
Mr. Jordan Goldstein

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Regards,
Timothy J. Regan

Wendell P. Weeks
President
Optical Communications

Corning Incorporated
One Riverfront Plaza
MP-HQ-E2-36
Corning, NY 14831

t 607 974 7401
f 607 974 7779

weekswp@corning.com
www.corning.com

December 3, 2001

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Federal Communications Commission
Office of Secretary

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Promoting Broadband Investment (CC Docket Nos. 96-98, 98-147)

Dear Chairman Powell:

I am writing to you on behalf of Corning Incorporated to bring to your attention a very urgent matter.

Corning is a global technology company operating in three broadly based business segments in the communications sector: telecommunications, advanced materials, and information display. We are primarily known as the leading supplier of optical fiber, fiber optic cable, and photonic components. In short, we provide the optical layer of the network.

It is no secret that the past year has been difficult for technology companies such as Corning. The fiber optics industry has been hit particularly hard. The industry has experienced historic layoffs and plant closings, both temporary and permanent. All manufacturing facilities have been idled to some degree or another.

Obviously, we need new opportunities. We have been exploring the potential for deploying fiber in the local access portion of the network. In the process, we have discovered that regulation is a significant hindrance to investment by ILECs in fiber access solutions. I hope the Commission will act quickly and decisively to address these regulatory problems.

Let me describe the regulatory problems by example. As you may know, SBC is deploying a state-of-the-art passive optical network called Project BPON on a trial basis in two cities: Mission Bay, California, and Keller, Texas. We, of course, would like to see SBC proceed to deploy this network throughout its region. Unfortunately, we have been advised that they have no intention of moving forward as long as the possibility remains open that unbundling, resale, and TELRIC pricing rules may be applied to

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this technology deployment. These points were made in public statements by SBC's Senior Executive Vice President, Ross Ireland.

This development is particularly troubling in light of the tremendous progress that has been made by the fiber optics industry in developing system solutions that are cost effective. Today, an ILEC, or any other operator for that matter, can deploy a fiber-based solution for local access in a new build or total rehab situation at a cost that is comparable to that of a capacity-constrained copper-based solution. In other words, carriers can deliver 100 times more capacity over fiber for the same price as copper.

Despite the progress made in reducing the cost of the technology, fiber-based solutions are not being deployed in any significant volume. As evidenced by SBC's experience with Project BPON, the unbundling, resale, and pricing regulations are discouraging investment. In others words, the regulations that are inhibiting investment are having a serious negative impact on the fiber optics industry.

The Commission should act to reverse these negative effects. Specifically, the Commission should decide not to impose unbundling and resale obligations on fiber-based broadband facilities deployed by ILECs in new build and total rehab situations. Such conditions would encompass deployments like SBC's Project BPON. This approach preserves competition because both ILECs and CLECs are in exactly the same competitive position. Neither has facilities and both face the same challenges and opportunities in deploying new plant. Moreover, there are no legacy ILEC facilities for the ILEC to either leverage or unbundle for the CLECs.

Corning and Paceon (a leading manufacturer of BPON equipment) already have briefed your staff, the leadership of the Common Carrier Bureau, and legal assistants to the Commissioners on these important matters. I believe the depth of our concern and the validity of our recommendation is shared within the agency. I urge the Commission, therefore, to act immediately to remove uncertainty and incent investment by making a ruling to implement this recommendation. The Next Generation Networks (Docket Nos. 98-147 and 96-98) and Line Sharing (Docket Nos. 98-147 and 96-98) proceedings provide an avenue for taking such prompt and critical action. At a minimum, I urge you to propose such action in the upcoming UNE triennial review proceeding and to implement this recommendation as rapidly as possible without waiting for resolution of the myriad other issues that will be dealt with in that docket.

Corning Incorporated

Adopting this proposal to relieve burdensome and unnecessary regulation would stimulate investment by both ILECs and their competitors without adversely affecting the evolution of competition. Doing so also is clearly consistent with your statement, "Digital Broadband Migration, Part II," in which you recognize that regulation can stifle investment.

I hope we can get together soon to discuss this proposal.

All the best,

A handwritten signature in cursive script that reads "Wendell P. Weeks".

CC: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Ms. Dorothy Attwood
Mr. Matthew Brill
Mr. Kyle D. Dixon
Mr. Samuel Feder
Mr. Jordan Goldstein